

LEGISLATURE OF NEBRASKA
ONE HUNDREDTH LEGISLATURE
FIRST SESSION
LEGISLATIVE BILL 678

Introduced by Dubas, 34; Burling, 33; McDonald, 41

Read first time January 17, 2007

Committee: Education

A BILL

1 FOR AN ACT relating to schools; to amend sections 79-407 and
2 79-473, Revised Statutes Cumulative Supplement, 2006,
3 as affected by Referendum 2006, No. 422; to change
4 provisions relating to school districts in annexed
5 territory; to harmonize provisions; to repeal the
6 original sections; and to declare an emergency.
7 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 79-407, Revised Statutes Cumulative
2 Supplement, 2006, as affected by Referendum 2006, No. 422, is
3 amended to read:

4 79-407 ~~The~~ Except as provided in section 79-473, the
5 territory within the corporate limits of each incorporated city or
6 village in the State of Nebraska that is not in part within the
7 boundaries of a learning community, together with such additional
8 territory and additions to such city or village as may be added
9 thereto, as declared by ordinances to be boundaries of such city
10 or village, having a population of more than one thousand and
11 less than one hundred fifty thousand inhabitants, including such
12 adjacent territory as now is or hereafter may be attached for
13 school purposes, shall constitute a Class III school district,
14 except that nothing in this section shall be construed to change
15 the boundaries of any school district that is a member of a
16 learning community. The school district shall be a body corporate
17 and possess all the usual powers of a corporation for public
18 purposes and may sue and be sued, purchase, hold, and sell such
19 personal and real property, and control such obligations as are
20 authorized by law.

21 Sec. 2. Section 79-473, Revised Statutes Cumulative
22 Supplement, 2006, as affected by Referendum 2006, No. 422, is
23 amended to read:

24 79-473 (1) If the territory annexed by a change of
25 boundaries of a city or village which lies within a Class III

1 school district as provided in section 79-407 has been part of a
2 Class IV or Class V school district prior to such annexation, a
3 merger of the annexed territory with the Class III school district
4 shall become effective only if the merger is approved by a majority
5 of the members of the school board of the Class IV or Class
6 V school district and a majority of the members of the school
7 board of the Class III school district within ninety days after
8 the effective date of the annexation ordinance, except that a
9 merger shall not become effective pursuant to this section if such
10 merger involves a school district that is a member of a learning
11 community.

12 (2) ~~Notwithstanding subsection (1) of this section,~~ when
13 When territory which lies within a Class III school district, Class
14 VI school district, or Class I school district which is attached
15 to a Class VI school district or which does not lie within a Class
16 IV or V school district is annexed by a city or village pursuant
17 to section 79-407, the annexed territory shall remain a part of
18 the school district of which it was a part immediately before the
19 date of passage of the annexation ordinance. affected school board
20 of the city or village school district and the affected school
21 board or boards serving the territory subject to the annexation
22 ordinance shall meet within thirty days after the effective date of
23 the annexation ordinance if neither school district is a member of
24 a learning community and negotiate in good faith as to which school
25 district shall serve the annexed territory and the effective date

1 of any transfer. During the process of negotiation, the affected
2 boards shall consider the following criteria:

3 (a) The educational needs of the students in the affected
4 school districts;

5 (b) The economic impact upon the affected school
6 districts;

7 (c) Any common interests between the annexed or platted
8 area and the affected school districts and the community which has
9 zoning jurisdiction over the area; and

10 (d) Community educational planning.

11 If no agreement has been reached within ninety days after
12 the effective date of the annexation ordinance, the territory shall
13 transfer to the school district of the annexing city or village
14 ten days after the expiration of such ninety-day period unless an
15 affected school district petitions the district court within the
16 ten-day period and obtains an order enjoining the transfer and
17 requiring the boards of the affected school districts to continue
18 negotiation. The court shall issue the order upon a finding that
19 the affected board or boards have not negotiated in good faith
20 based on one or more of the criteria listed in this subsection. The
21 district court shall require no bond or other surety as a condition
22 for any preliminary injunctive relief. If no agreement is reached
23 after such order by the district court and additional negotiations,
24 the annexed territory shall become a part of the school district of
25 the annexing city or village.

1 ~~(3) If, within the boundaries of the annexed territory,~~
2 ~~there exists a Class VI school, the school building, facilities,~~
3 ~~and land owned by the school district shall remain a part of~~
4 ~~the Class VI school district. If the Class VI school district~~
5 ~~from which territory is being annexed wishes to dispose of such~~
6 ~~school building, facilities, or land to any individual or political~~
7 ~~subdivision, including a Class I school district, the question of~~
8 ~~such disposition shall be placed on the ballot for the next primary~~
9 ~~or general election. All legal voters of such Class VI school~~
10 ~~district shall then vote on the question at such election. A simple~~
11 ~~majority of the votes cast shall resolve the issue.~~

12 ~~(4) (3) (a) Whenever an application for approval of a~~
13 ~~final plat or replat is filed for territory which lies within the~~
14 ~~zoning jurisdiction of a city of the first or second class and does~~
15 ~~not lie within the boundaries of a Class IV or V school district,~~
16 ~~the boundaries of a school district that is a member of a learning~~
17 ~~community, the boundaries of any county in which a city of the~~
18 ~~metropolitan class is located, or the boundaries of any county that~~
19 ~~has a contiguous border with a city of the metropolitan class, the~~
20 ~~affected school board of the school district within the city of the~~
21 ~~first or second class or its representative and the affected board~~
22 ~~or boards serving the territory subject to the final plat or replat~~
23 ~~or their representative shall meet within thirty days after such~~
24 ~~application and negotiate in good faith as to which school district~~
25 ~~shall serve the platted or replatted territory and the effective~~

1 date of any transfer based upon the following criteria: prescribed
2 in subsection (2) of this section.

3 (i) The educational needs of the students in the affected
4 school districts;

5 (ii) The economic impact upon the affected school
6 districts;

7 (iii) Any common interests between the platted area and
8 the affected school districts and the community which has zoning
9 jurisdiction over the area; and

10 (iv) Community educational planning.

11 (b) If no agreement has been reached prior to the
12 approval of the final plat or replat, the territory shall transfer
13 to the school district of the city of the first or second class
14 upon the filing of the final plat remain in the school district
15 of which it was a part immediately before such plat or replat was
16 filed unless an affected school district petitions the district
17 court within ten days after approval of the final plat or replat
18 and obtains an order enjoining the transfer and requiring the
19 affected boards to continue negotiation. The court shall issue the
20 order upon a finding that the affected board or boards have not
21 negotiated in good faith based on one or more of the criteria
22 listed in subsection (2) subdivision (3)(a) of this section. The
23 district court shall require no bond or other surety as a condition
24 for any preliminary injunctive relief. If no agreement is reached
25 after such order by the district court and additional negotiations,

1 the platted or replatted territory shall become a part of the
2 school district of the city of the first or second class. remain in
3 the school district of which it was a part immediately before such
4 plat or replat was filed.

5 (c) For purposes of this subsection, plat and replat
6 apply only to ~~(a)~~ (i) vacant land, ~~(b)~~ (ii) land under cultivation,
7 or ~~(e)~~ (iii) any plat or replat of land involving a substantive
8 change in the size or configuration of any lot or lots.

9 ~~(5)~~ (4) Notwithstanding any other provisions of this
10 section, all negotiated agreements relative to boundaries or to
11 real or personal property of school districts reached by the
12 affected school boards shall be valid and binding, except that such
13 agreements shall not be binding on reorganization plans pursuant to
14 the Learning Community Reorganization Act.

15 (5) Notwithstanding any other provision of law, the
16 boundaries of school districts negotiating on the effective date
17 of this act pursuant to subsection (2) or (4) of this section as
18 this section existed before the enactment of this legislative bill
19 shall, on and after the effective date of this act, be the same as
20 such boundaries were immediately before such date.

21 Sec. 3. Original sections 79-407 and 79-473, Revised
22 Statutes Cumulative Supplement, 2006, as affected by Referendum
23 2006, No. 422, are repealed.

24 Sec. 4. Since an emergency exists, this act takes effect
25 when passed and approved according to law.